

MINUTES OF REGULAR MEETING  
SUGAR CITY COUNCIL  
THURSDAY, OCTOBER 11, 2012

Presiding: Mayor Glenn W. Dalling  
Meeting Convened at 6:30 p.m.  
Prayer: Burch Drake  
Pledge of Allegiance

Present: Mayor Dalling; Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Bruce King, Lamont Merrill and Burch Drake; David Ogden, Planning & Zoning Commission; Wayne Sharp; Latisha Bloom; Clayne Bloom; Teya Peck; Mary Louise Barney; Tim Rarick; and Angelika Gutenberger. Councilmember Vaun Waddell was excused.

**PUBLIC HEARING (Tim and Jodi Rarick Special Use Permit):** Mayor Dalling welcomed everyone and brought the public hearing to order. He presented a brief review of the procedure for the public hearing and stated that due to the fact that an audible recording, as required by law, was not made of the Planning and Zoning Commission's public hearing held September 6, 2012, Attorney Forsberg advised that another public hearing was needed. At 6:50 p.m. Tim Rarick arrived and presented his request for a special use permit to rent out an existing 2-bedroom apartment above their garage. They bought the home knowing about the history, but they can't afford the house without renting out the apartment. City Clerk Sharon Bell reported there were three prior written testimonies submitted. These were read into the record as follows:

**CLAYNE AND TISH BLOOM, 219 South Idaho:** "We wish to address you on the matter of the special use permit requested by the Raricks. We have attended many Planning and Zoning meetings regarding this matter over the past few years, we believe the number of times it has been addressed is at least ten. Once again we are present to express our concern over this matter. We want to commend the Raricks in their effort to go about this the right way. As Mr. Rarick so aptly stated in the Planning and Zoning meeting, the past residents have felt it is much easier to get forgiveness than permission. We also recognize the frustration they must feel purchasing a home that has an apartment that they may not be able to rent. We understand the special use permit (aka loop hole) could possibly allow this apartment to be legally occupied. Our concern is the same now as it was at the beginning of this matter with the Prices, we live in a neighborhood zoned R1, residential, single family dwellings. We chose our home based on that zoning. The zoning has never changed in yet here we are, once again, to ask you to uphold the zoning laws.

"The Raricks stated in their presentation that they have financial goals that they would like to accomplish with the rental of this apartment. Although we understand the pressures of financial obligations we still believe that the issue remains the same. The zoning is R1. We believe that if you allow this to be your deciding factor it could happen many times over. We all have financial burdens. Mr. Don Rydalch had letters from the mayor and the city's attorney he read in the Planning and Zoning hearing. They stated you would do everything in your power to put this matter to rest. In yet again we must attend a public hearing and oppose our neighbors, whom we have nothing against personally. This has been very hard for many of us in the neighborhood. Some have 'given up' simply because they believe the city has failed in the past

to uphold the zoning laws and will continue to do the same in the future. We hope that your decision will disprove this theory. Either way we want this matter to be decided for good. We do not wish to attend another meeting over this matter.”

**BRENT AND DONNA JEAN KINGHORN, 215 West 3<sup>rd</sup> South:** “Because we can’t personally be present for the hearing regarding the request by Tim and Jodi Rarick for a special use permit to make the apartment at their residence available to be rented, we desire to submit our thoughts on the matter in writing. We, Brent and Donna Jean Kinghorn who reside at 215 West 3<sup>rd</sup> South in Sugar City, across the street from the Raricks, wish to add our voice in support of the Rarick’s request for this special use permit. We are aware that some in our neighborhood are against the Rarick’s request. We consider these individuals dear friends and we have the utmost respect for them. We feel, however, that granting this particular special use permit will not adversely affect our neighborhood and know that other neighbors share this opinion.

“We feel so for the following reasons: (1) The apartment in question is a part of duplex that is owner-occupied. This, we feel, is a huge factor. The owner-managers (the Raricks) will always be available to monitor and respond to concerns, if any, by neighbors regarding their renters. This presents a much different scenario than could happen if both units of the duplex were occupied by renters with the owner living out of the state or area. (2) The Rarick’s desire is to rent the unit, if possible, to a young married, BYU-Idaho student couple. This is the case because it fits in with what Tim Rarick does as a Home and Family Relations professor at BYU-Idaho. They want this type of renters because they have a young family of their own in their part of the duplex that they, more than anyone else, want to protect from any questionable, loud or unsavory renters. (3) This type of an arrangement typifies the ‘Bird in the hand is better than two in the bush’ scenario where you know what and who you have instead of wondering who will be the next renter. (The Raricks purchased their home, with its apartment, with the idea in mind that the extra income would make their purchase more attractive and more viable. If they can’t obtain the special use permit, they have indicated they may prefer to sell and look elsewhere – which they would prefer not to do.) (4) We have been told that their request meets the requirements of the city code for applying for a special use permit within the R1 zone area.

“(5) Any concern for their request setting a precedent seems to us to already be mute because of the ‘owner-occupied’ duplex located almost directly across the street owned by Richard and Deborah Johnson – who, incidentally, with their renters have been a blessing to our neighborhood. We were in attendance at the city hearing when the Johnsons applied for and were granted their special use permit several years ago and we have seen them meet and handle every concern that was raised regarding their request at that time. We feel the Raricks will do likewise. (6) Sugar City has always been a family-oriented, friendly community that has welcomed and been blessed by the families who have moved here. Those who have extended themselves to fit into the neighborhood have always added much to our community. The Raricks have already done this and we feel that anyone they would rent to would do the same. (7) We have been told that the Raricks would even be willing to agree to a compromise proposal made by a member of the Sugar City Planning and Zoning Committee to accept a limited five year special use permit, allowing them this time to create an access from their main unit to the apartment unit so that it could become part of their home. With this attitude, if any feelings against the special use permit, still existed after five years, it would seem that it would be a win-win situation for all. For these reasons we again express our support for the Rarick’s request for a special use permit to allow them to rent out their apartment.”

**HAROLD L. HARRIS, 21 N. Maple Avenue:** “Not being able to attend the public hearing because of other commitments, I would like to express my thought about the special use permit requested by Tim and Jodi Rarick. I am not that concerned about an apartment above their garage as I am about the setting of a precedent in an R-1 zone that would allow multiple housing in an R-1 zone. It’s for this reason I am testifying against the special use permit request. Thank you for the opportunity to testify about this matter.”

With the sign-up sheet of the public hearing in hand, Mayor Dalling called first for those in favor of approving the proposed special use permit. No one testified.

The mayor called for those neutral to the proposal to testify. Comments were made as follows:

**TEYA PECK, 222 South Cutler:** Ms. Peck understands that it is in the R-1 zone. She is for them because it was not their mistake. It is an apartment and it is available. Previous people actually ended up getting permission. She feels they should use it since they have it.

The mayor then called for those against the proposal to testify. No one testified.

7:10 p.m. The public hearing ended, and the council convened its regular meeting.

Present: Mayor Dalling; Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Bruce King, Lamont Merrill and Burch Drake; and David Ogden, Planning & Zoning Commission; Clair Boyle; Wayne Sharp; Latisha Bloom; Clayne Bloom; Teya Peck; Angelika Gutenberg; Kristin Galbraith; and Kevin Galbraith.

**DISCUSSION ON PUBLIC HEARING:** Discussion was had. Title 9-6-5C(3) states: “Within 35 days after its final public hearing or after receiving the recommendation of the planning and zoning commission, whichever is later, city council shall approve, conditionally approve, or deny the application, unless this time limit is extended by mutual agreement with the applicants.” It was decided to wait until Councilmember Waddell returns and then make the decision at the next meeting.

The mayor asked if there were any corrections to the minutes of the regular meeting held on September 13, 2012. Each councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember King and seconded by Councilmember Merrill to accept said minutes; motion carried.

Marcie presented the September reconciliation reports for the General Fund. It was moved by Councilmember Merrill and seconded by Councilmember Drake to accept the September reconciliation reports for the General fund; motion carried. Marcie presented the September reconciliation reports for the Utility Fund. It was moved by Councilmember King and seconded by Councilmember Drake to accept the September reconciliation reports for the Utility Fund; motion carried.

Marcie presented the current bills in the amount of \$240,830.63. It was moved by

Councilmember King and seconded by Councilmember Merrill to pay the current bills, together with all regular October bills that have not yet been received; motion carried.

**PLANNING & ZONING REPORT:** In the absence of P&Z Chairman Steve Hawkes, Commissioner David Ogden addressed the council.

**Sign permit for Brad Orme:** Commissioner Ogden reported that Brad's application for a sign permit was tabled because of the verbiage in the current code that he was unable to meet and his desire to get under the new code.

**Discussion on recommended change to the sign ordinance:** Commissioner Ogden recommended two changes in the sign schedule under the M-1, M-2 and CD zones relating to wall signs. He said it was an oversight on Planning and Zoning's part. He recommended making the changes and adopting the sign code.

**Impact area zoning:** The Planning and Zoning Commission continues to work on the impact area zoning. The mayor thanked Commissioner Ogden for his good work in assuming the leadership of the commission during Steve Hawkes' absence.

**SOFA SOURCE PRESENTATION BY CLAIR BOYLE:** In the interest of time, Mayor Dalling asked Mr. Boyle to give his presentation. Mr. Boyle reported that Mr. Beckstead has paid for lot 11 block 3 of the Sugar City Business Park. He just wanted to make the council aware of what was happening. The plans have been reviewed by the design committee and by the Planning and Zoning Commission and a few changes have been made. Mr. Beckstead has been notified that, according to Section IV-2 of the protective covenants, he is allowed to have an employees' lounge in the proposed building. No building permit has been issued yet.

#### **ORDINANCE NO. 299:**

Councilmember King introduced Ordinance No. 299 entitled:

"AN ORDINANCE REPEALING, REDESIGNATING AND ENACTING CHAPTER 2 OF TITLE 8 OF THE SUGAR CITY, IDAHO, CODE. THIS ORDINANCE AMENDS TITLE 8 WITH REGARDS TO THE ADOPTION OF THE OUTDOOR SIGN CODE (2012, FIRST PRINTING) DEFINING CERTAIN TERMS USED IN CHAPTER 2 OF TITLE 8; SETTING FORTH THE SIGN REQUIREMENTS FOR EACH ZONING DISTRICT; ADDING PROCEDURES FOR OBTAINING A SIGN PERMIT; AND PROVIDING THE EFFECTIVE DATE OF THIS ORDINANCE."

It was moved by Councilmember King and seconded by Councilmember Merrill to waive the reading on three different days and in full and place it upon its final passage. Thereupon the clerk called roll upon said motion.

Those voting aye: Councilmembers King, Merrill and Drake

Those voting nay: none

Thereupon, the mayor declared that the motion, having been passed by not less than two-thirds of the council, had been duly carried. It was moved by Councilmember Drake and seconded by Councilmember King to adopt said ordinance. Thereupon, the clerk called roll upon said motion.

Those voting aye: Councilmembers King, Merrill and Drake

Those voting nay: none

Ordinance No. 299 was thereupon declared by the mayor to have been duly passed by not less

than two-thirds of the council, and the clerk was instructed to publish said Ordinance No. 299 in summary or full immediately in at least one issue of the *Standard Journal*, a newspaper published in the City of Rexburg, Madison County, Idaho.

**MADISON COUNTY REQUEST FOR RECOMMENDATION ON EAST PARKWAY**

**CORRIDOR:** The mayor reported that, at the request of Sugar-Salem School District Superintendent Alan Dunn, Councilmember King made a presentation to the school board at its regular monthly meeting September 26. Board members subsequently directed Superintendent Dunn to write a letter, dated October 4, 2012, to the city recommending option E for the northern leg of the proposed corridor. This option is the one farthest east, running along the east side of the Teton Island Canal. Meanwhile, the city received a written request, dated September 19, 2012, from Madison County to give input on the route of the corridor north of Moody Road. It was recommended to ask the Planning and Zoning Commission for their recommendation first. The matter will be discussed thoroughly at the next city council meeting, and the city will decide whether to change its existing recommendation or provide a new one.

**UTILITY BILLS FOR PUBLIC BUILDINGS:** The mayor reported that the fire department does not want to pay utility bills for their building. He was interested to learn from Marcie Smith that the county hasn't asked about the bills for the search and rescue building. Discussion was had. Marcie said that she checked with other cities and found that about half of the ones that responded do charge utilities for public buildings. The mayor asked the council to think about the matter for two weeks and do a little research themselves.

**AT&T MODIFICATION ON WATER TOWER ANTENNAE:** The mayor reported that AT&T wrote a letter with a description of what they want to do on the water tower. They want to add three new antennas. There is a discrepancy as to how many antennas are already on the tower, and he doesn't feel there is any more room for further antennas.

**BUSINESS PARK SIGN:** The mayor said that Madison County Economic Partners has given us \$5,000 for a nice Business Park sign. A discussion was had on whether the city wants it to be like the West Entrance sign, because they are across the street from each other, or to have it look different. The mayor will obtain a little more information and prices for the next meeting.

**BRAD ORME LEASE:** A discussion was had on the change made to paragraph 2 of Brad Orme's proposed lease by Attorney Forsberg.

**MOTION:** It was moved by Councilmember Merrill and seconded by Councilmember Drake to approve the lease as amended by Attorney Forsberg; motion carried.

**DEPARTMENT REPORTS:**

**COUNCILMEMBER KING:** No report.

**COUNCILMEMBER MERRILL:**

**LEPC meeting:** Everyone was invited to go down to Idaho Falls to the Eastern Idaho Interagency Fire Center, but he did not attend the meeting.

**Sugar-Salem High School addition:** Lamont reported that the city building inspector, Cliff Morris, is out of town for two weeks. Cliff asked him to do the inspections while he is gone. The school's building permit is in the process of plan check. The mayor said we

should assume that everything will go as normal in issuing the building permit. The City of Rexburg has approved the footings and foundation plan check and the state will do the remainder of the plan check. Lamont reported that Forsgren Associates was at the building site today and that Harold Harris is taking pictures for the school. He will do the footings and foundation inspections for the city until Cliff returns.

**COUNCILMEMBER DRAKE:**

**West Entrance sign:** Burch hopes that the travertine rock will be here by Monday and the sign can be finished. The next thing the Tree and Beautification Committee wants to get done is to paint the grain silo. Grant Johnson is working with the art department at BYU-Idaho. Then they would like to make a park around the silo.

**MAYOR'S BUSINESS:**

**Notice on city cleanup:** The mayor talked about a notice that was sent out today, which he did not authorize and is uncomfortable with. It said the residents may be charged extra backhoe and operator costs of \$75/hour during city cleanup, which starts next week. He said people are people and we will have to tolerate some things.

**Business Park water damage:** The mayor reported that it cost \$4,300 for repairs to the damage caused by the broken water line at the sheriff's building. Forsgren agreed to pay that part and not pay for the thrust blocks because they thought it was a poor decision on the city's part to spend the money for the thrust blocks. They felt that it could be done for considerably less. He said that Ted Hendricks said, as a compromise, to take the cost for the thrust blocks out of the revenue from the Business Park. Then the city could reduce Forsgren's costs on Digger Drive by \$4,300. They feel that this is the best compromise we can get at this point. Councilmember King feels the matter should be left with the mayor to do as he sees fit.

Meeting adjourned at 9:25 p.m.

Signed: \_\_\_\_\_  
Glenn W. Dalling, Mayor

Attested: \_\_\_\_\_  
Sharon L. Bell, Clerk